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LEASE OF RAILROAD EQUIPMENT

by and between

BEAUFORT EQUIPMENT CORPORATION

and

NORFOLK SOUTHERN RAILWAY COMPANY

Dated as of August 1, 1968

LEASE OF RAILROAD EQUIPMENT dated as of August 1, 1968, between BEAUFORT EQUIPMENT CORPORATION, a New York corporation (hereinafter called the Lessor), and NORFOLK SOUTHERN RAILWAY COMPANY, a Virginia corporation (hereinafter called the Lessee).

WHEREAS, the Lessor and the Lessee have entered into a Conditional Sale Agreement, dated as of August 1, 1968 (hereinafter called the Conditional Sale Agreement), with GREENVILLE STEEL CAR COMPANY (hereinafter called the Manufacturer), wherein the Manufacturer has agreed to manufacture, sell and deliver to the Lessor the railroad equipment described in Schedule A to the Conditional Sale Agreement;

WHEREAS, the Manufacturer has assigned its interest in the Conditional Sale Agreement to Mercantile-Safe Deposit and Trust Company, as Agent; and

WHEREAS, the Lessee desires to lease all the units of said equipment, or such lesser number as are delivered and accepted and settled for under the Conditional Sale Agreement on or prior to December 31, 1968 (hereinafter called the Units), at the rentals and for the terms and upon the conditions hereinafter provided;

NOW, THEREFORE, in consideration of the premises and of the rentals to be paid and the covenants hereinafter

mentioned to be kept and performed by the Lessee, the Lessor hereby leases the Units to the Lessee upon the following terms and conditions, but, upon default of the Lessee hereunder, subject to all the rights and remedies of the Vendor (as that term is defined in the Conditional Sale Agreement) under the Conditional Sale Agreement:

§1. Delivery and Acceptance of Units. The Lessor will cause each Unit to be tendered to the Lessee at the point or points within the United States of America at which such Unit is delivered to the Lessor under the Conditional Sale Agreement. Upon such tender, the Lessee will cause an authorized representative of the Lessee to inspect the same, and if such Unit is found to be in good order, to accept delivery of such Unit and to execute and deliver to the Lessor and to the Manufacturer a certificate of acceptance and delivery (hereinafter called the Certificate of Delivery); whereupon such Unit shall be deemed to have been delivered to and accepted by the Lessee and shall be subject thereafter to all the terms and conditions of this Lease.

§2. Rentals. The Lessee agrees to pay to the Lessor as rental for each Unit subject to this Lease, 30 consecutive semiannual payments, payable on April 1 and October 1 of each year, commencing April 1, 1969. The first such semiannual payment shall be in an amount equal to 0.0189% of the Purchase Price (as such term is defined in the Conditional Sale

Agreement) of each Unit subject to this Lease for each day elapsed from and including the date such Unit is settled for under the Conditional Sale Agreement to April 1, 1969; the next nine such semiannual payments shall each be in an amount equal to 3.40326% of the Purchase Price of each Unit subject to this Lease; and the last 20 such semiannual payments shall each be in an amount equal to 6.26014% of the Purchase Price of each such Unit. If any of the payment dates referred to above is not a business day, the payment shall be payable on the next succeeding business day.

The Lessor irrevocably instructs the Lessee, so long as to the knowledge of the Lessee no event of default under the Conditional Sale Agreement shall have occurred and be continuing, (i) to make such of the payments provided for in this Lease (including but not limited to the payments required under §6 hereof) as will satisfy the obligations of the Lessor under the Conditional Sale Agreement accrued at the time any of such payments is due hereunder, for the account of the Lessor, care of Mercantile-Safe Deposit and Trust Company, Calvert & Redwood Streets, Baltimore, Maryland 21203, attention of Corporate Trust Department, and (ii) to pay any balance of the payments provided for in this Lease after deduction of the amount payable pursuant to the foregoing clause (i) to the Lessor directly at its offices at 20 Grist Mill Lane, Flandome Mills, Manhasset, New York 11030.

Notwithstanding anything to the contrary contained in this Lease, it is hereby expressly agreed that the Lessee may terminate, without penalty, its obligations to pay further rentals under this Lease in respect of any or all Units covered by the Conditional Sale Agreement if an event of default shall exist under the Conditional Sale Agreement (as defined in Article 17 thereof) if such default was not due to any default by the Lessee hereunder.

This Lease is a net lease and the Lessee shall not be entitled to any abatement of rent, reduction thereof or set-off against rent, including, but not limited to, abatements, reductions or setoffs due or alleged to be due to, or by reason of, any past, present or future claims of the Lessee against the Lessor under this Lease or the Manufacturer or the Vendor or otherwise; nor, except as otherwise expressly provided herein, shall this Lease terminate, or the respective obligations of the Lessor or the Lessee be otherwise affected, by reason of any defect in or damage to or loss of possession or loss of use of or destruction of all or any of the Units from whatsoever cause, the prohibition of or other restriction against Lessee's use of any of or all the Units, the interference with such use by any person or entity, the invalidity or unenforceability or lack of due authorization of this Lease, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of

the parties hereto that the rents and other amounts payable by the Lessee hereunder shall continue to be payable in all events in the manner and at the times herein provided unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Lease.

§3. Term of Lease. The term of this Lease as to each Unit shall begin on the date of the delivery to and acceptance by the Lessee of such Unit and, subject to the provisions of §§6 and 9 hereof, shall terminate on the date on which the final semiannual payment of rent in respect thereof is due hereunder.

§4. Identification Marks. The Lessee will cause each Unit to be kept numbered with the identifying number set forth in Schedule A to the Conditional Sale Agreement and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on both sides of such Unit, in letters not less than one inch in height, the following words:

"MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY,
AGENT, OWNER"

or other appropriate words designated by the Lessor, with appropriate changes therein and additions thereto as from time to time may be required by law in order to protect the title of the Lessor or the Vendor to such Unit and the rights of the Lessor under this Lease and the Conditional Sale Agreement and of the Vendor under the Conditional Sale Agreement. The Lessee

will not place any such Unit in operation or exercise any control or dominion over the same until such names and words shall have been so marked on both sides thereof and will replace promptly any such names and word or words which may be removed, defaced or destroyed. The Lessee will not change the identifying number of any Unit except in accordance with a statement of new identifying numbers to be substituted therefor, which statement previously shall have been filed with the Vendor and the Lessor by the Lessee and filed, recorded or deposited in all public offices where this Lease will have been filed, recorded or deposited.

Except as above provided, the Lessee will not allow the name of any person, association or corporation to be placed on the Units as a designation that might be interpreted as a claim of ownership, provided, however, that the Lessee may cause the Units to be lettered with the names or initials or other insignia customarily used by the Lessee or its affiliates on railroad equipment used by them of the same or a similar type for convenience of identification of their rights to use the Units as permitted under this Lease.

§5. Taxes. All payments to be made by the Lessee hereunder will be free of expense to the Lessor for collection or other charges and will be free of expense to the Lessor with respect to the amount of any local, state, federal or Canadian (Dominion or Provincial) taxes (other than any Federal income

tax or any Canadian [Dominion or Provincial] income tax [to the extent that the Lessor receives credit therefor against its U. S. Federal income tax liability] payable by the Lessor in consequence of the receipt of payments provided herein and other than the aggregate of all state or city income taxes or franchise taxes measured by net income based on such receipts, up to the amount of any such taxes which would be payable to the state and city in which the Lessor has its principal place of business without apportionment to any other state, except any such tax which is in substitution for or relieves the Lessee from the payment of taxes which it would otherwise be obligated to pay or reimburse as herein provided), assessments or licenses (and any charges, fines or penalties in connection therewith) hereafter levied or imposed upon or in connection with or measured by this Lease or any sale, rental, use, payment, shipment, delivery or transfer of title under the terms hereof or the Conditional Sale Agreement, all of which expenses, taxes, assessments, licenses, charges, fines and penalties (hereinafter called impositions) the Lessee assumes and agrees to pay on demand in addition to the payments to be made by it provided for herein. The Lessee will also pay promptly all impositions which may be imposed upon any Unit or for the use or operation thereof or upon the earnings arising therefrom or upon the Lessor solely by reason of its ownership thereof and will keep at all times all and every part of such Unit free

and clear of all impositions which might in any way affect the title of the Lessor or result in a lien upon any such Unit; provided, however, that the Lessee shall be under no obligation to pay any impositions so long as it is contesting in good faith and by appropriate legal proceedings such impositions and the nonpayment thereof does not, in the opinion of the Lessor, adversely affect the property or rights of the Lessor hereunder or under the Conditional Sale Agreement. If any impositions shall have been charged or levied against the Lessor directly and paid by the Lessor, the Lessee shall reimburse the Lessor on presentation of invoice therefor.

In the event that the Lessor shall become obligated to make any payment to the Manufacturer or the Vendor pursuant to Article 10 of the Conditional Sale Agreement not covered by the foregoing paragraph of this § 5, the Lessee shall pay such additional amounts (which shall also be deemed impositions hereunder) to the Lessor as will enable the Lessor to fulfill completely its obligations to the Manufacturer or the Vendor pursuant to said Article 10.

In the event any reports with respect to impositions are required to be made on the basis of individual Units, the Lessee will either make such reports in such manner as to show the interests of the Lessor and the Vendor in such Units or notify the Lessor and the Vendor of such requirement and make such reports in such manner as shall be satisfactory to the Lessor and the Vendor.

In the event that, during the continuance of this Lease, the Lessee becomes liable for the payment or reimbursement of any impositions, pursuant to this § 5, such liability shall continue, notwithstanding the expiration of this Lease, until all such impositions are paid or reimbursed by the Lessee.

§6. Payment for Casualty Occurrences. In the event that any Unit shall be or become worn out, lost, stolen, destroyed or irreparably damaged, from any cause whatsoever, or taken or requisitioned by condemnation or otherwise (such occurrences being hereinafter called Casualty Occurrences) during the term of this Lease, the Lessee shall, within eight days after it shall have determined that such Unit has suffered a Casualty Occurrence, fully inform the Lessor and the Vendor in regard thereto. On the next succeeding rental payment date the Lessee shall pay to the Lessor an amount equal to the accrued rental for such Unit to the date of such payment plus a sum equal to the Casualty Value, as hereinafter defined, of such Unit as of the date of such payment in accordance with the schedule set out below. Upon the making of such payment by the Lessee in respect of any Unit, the rental for such Unit shall cease to accrue as of the date of such payment, the term of this Lease as to such Unit shall terminate and (except in the case of the loss, theft or complete destruction of such Unit) the Lessor shall be entitled to

recover possession of such Unit. In the event of destruction of such Unit, Lessee will make settlement for the salvage value of such Unit to the Lessor based upon its net scrap value, computed at the current quoted price per gross ton of number 1 railroad heavy melting steel scrap at Pittsburgh, Pennsylvania, on the date of the Casualty Occurrence, less an allowance of \$4.50 per gross ton for dismantling such Unit.

The Casualty Value of each Unit as of any rental payment date shall be that percentage of the Purchase Price applicable to such Unit as is set forth in the following schedule opposite the number of such rental payment date:

<u>Payment No.</u>	<u>Percentage</u>	<u>Payment No.</u>	<u>Percentage</u>
1	100%	16	85%
2	100	17	80
3	100	18	75
4	100	19	70
5	100	20	70
6	100	21	60
7	100	22	60
8	100	23	50
9	100	24	50
10	100	25	40
11	100	26	40
12	100	27	30
13	95	28	30
14	90	29	20
15	90	30	20

Except as hereinabove in this § 6 provided, the Lessee shall not be released from its obligations hereunder in the event of, and shall bear the risk of, any Casualty Occurrence to any Unit after delivery to and acceptance thereof by the Lessee hereunder.

§7. Annual Reports. On or before April 1 in each year commencing with the year 1969, the Lessee will cause to be furnished to the Lessor and the Vendor an accurate statement, as of the preceding January 1, (a) showing the amount, description and numbers of the Units then leased hereunder, the amount, description and numbers of all Units that may have suffered a Casualty Occurrence during the preceding twelve months (or since the date of this Lease, in the case of the first such statement), and such other information regarding the condition and state of repair of the Units as the Lessor or the Vendor may reasonably request and (b) stating that, in the case of all Units repainted during the period covered by such statement, the markings required by § 4 hereof and Article 9 of the Conditional Sale Agreement shall have been preserved or replaced. The Lessor shall have the right at its sole cost and expense, by its authorized representatives, to inspect the Units and the Lessee's records with respect thereto, at such times as shall be reasonably necessary to confirm to the Lessor the existence and proper maintenance of the Units during the continuance of this Lease.

§8. Disclaimer of Warranties; Compliance with Laws and Rules; Maintenance; Indemnification. The Lessor makes no warranty or representation, either express or implied, as to the design or condition of, or as to the quality of the material, equipment or workmanship in, the Units delivered to the Lessee hereunder, and THE LESSOR MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS OF THE UNITS FOR ANY PARTICULAR PURPOSE or as to title to the Units or any component thereof, it being agreed that all such risks, as between the Lessor and the Lessee, are to be borne by the Lessee; but the Lessor hereby irrevocably appoints and constitutes the Lessee its agent and attorney-in-fact during the term of this Lease to assert and enforce from time to time, in the name of and for account of the Lessor and/or the Lessee, as their interests may appear, whatever claims and rights the Lessor may have, as vendee, under the provisions of Articles 14 and 15 of the Conditional Sale Agreement. Lessee's acceptance of delivery of the Units shall be conclusive evidence as between the Lessee and the Lessor that all Units described in the Certificate of Delivery are in all the foregoing respects satisfactory to the Lessee, and the Lessee will not assert any claim of any nature whatsoever against the Lessor based on any of the foregoing matters.

The Lessee agrees, for the benefit of the Lessor and the Vendor, to comply in all respects with all laws of

the jurisdictions in which the Units may be operated, with the Interchange Rules of the Association of American Railroads and with all lawful rules of the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Units. In the event that such laws or rules require the alteration of the Units or in case any equipment or appliance on any such Unit shall be required to be changed or replaced, or in case any additional or other equipment or appliance is required to be installed on such Unit in order to comply with such laws and rules, the Lessee agrees to make such alterations, changes, replacements and installations at its own expense; and the Lessee agrees at its own expense to use, maintain and operate such Unit in full compliance with such laws and rules so long as it is subject to this Lease; provided, however, that the Lessee may, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Lessor or the Vendor, adversely affect the property or rights of the Lessor or the Vendor hereunder or under the Conditional Sale Agreement.

The Lessee agrees that, at its own cost and expense, it will maintain and keep each Unit which is subject to this Lease in good order and repair.

Any and all additions to any Unit and any and all parts installed on or replacements made to any Unit shall be

considered accessions to such Unit and, at the cost and expense of the Lessee, full ownership thereof free of any lien, charge, security interest or encumbrance (except for those created by the Conditional Sale Agreement) shall immediately be vested in the Lessor and the Vendor as their respective interests appear in the Unit itself.

The Lessee agrees to indemnify and save harmless the Lessor and the Vendor against any charge or claim made against the Lessor or the Vendor, and against any expense, loss or liability (including but not limited to counsel fees and expenses, patent liabilities, penalties and interest) which the Lessor or the Vendor may incur in any manner by reason of entering into or the performance of the Conditional Sale Agreement or this Lease or by reason of the ownership of any Unit, or which may arise in any manner out of or as the result of the ordering, acquisition, use, operation, condition, purchase, delivery, rejection, storage or return of any Unit under this Lease, until the Lessee no longer has possession thereof or until no longer stored by the Lessee, whichever is later. The Lessee further agrees to indemnify and save harmless the Lessor and the Vendor against any charge, claim, expense, loss or liability on account of any accident in connection with the operation, use, condition, possession or storage of any Unit resulting in damage to property or injury to any person. The indemnities arising under this paragraph shall survive payment of all other

obligations under this Lease or the termination of this Lease.

The Lessee agrees to prepare and deliver to the Lessor within a reasonable time prior to the required date of filing (or, to the extent permissible, file on behalf of the Lessor) any and all reports to be filed by the Lessor with any Federal, state or other regulatory authority by reason of the ownership by the Lessor or the Vendor of the Units or the leasing thereof to the Lessee.

§9. Default. If, during the continuance of this Lease, one or more of the following events (hereinafter sometimes called Events of Default) shall occur:

A. default shall be made in the payment of any part of the rental provided in § 2 hereof and such default shall continue for five days;

B. the Lessee shall make or permit any unauthorized assignment or transfer of this Lease or of possession of the Units, or any thereof;

C. default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of the Lessee contained herein or in the Conditional Sale Agreement and such default shall continue for 25 days after written notice from the Lessor to the Lessee specifying the default and demanding that the same be remedied;

D. any proceedings shall be commenced by or against

the Lessee for any relief under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustment of the obligations of the Lessee hereunder or under the Conditional Sale Agreement) and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under this Lease and under the Conditional Sale Agreement shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed for the Lessee or for the property of the Lessee in connection with any such proceedings or otherwise given the same status as obligations incurred by such a trustee or trustees or receiver or receivers, within 30 days after such appointment, if any, or 60 days after such proceedings shall have been commenced, whichever shall be earlier; or

E. a petition for reorganization under Section 77 of the Bankruptcy Act, as now constituted or as said Section 77 may be hereafter amended, shall be filed by or against the Lessee and, unless such petition shall

have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under the Conditional Sale Agreement and this Lease shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed in such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees, within 30 days after such appointment, if any, or 60 days after such petition shall have been filed, whichever shall be earlier;

then, in any such case, the Lessor, at its option, may:

(a) proceed by appropriate court action or actions either at law or in equity, to enforce performance by the Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof; or

(b) by notice in writing to the Lessee terminate this Lease, whereupon all rights of the Lessee to the use of the Units shall absolutely cease and determine as though this Lease had never been made, but the Lessee shall remain liable as hereinafter provided; and thereupon the Lessor may by its agents enter upon the premises of the Lessee or other premises where any of the Units may be and take possession of all or any of such Units

and thenceforth hold, possess and enjoy the same free from any right of the Lessee, or its successors or assigns, to use the Units for any purposes whatever, but the Lessor shall, nevertheless, have a right to recover from the Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Lessee (i) as damages for loss of a bargain and not as a penalty, a sum, with respect to each Unit, which represents the excess of (x) the present value, at the time of such termination, of the entire unpaid balance of all rentals for such Unit which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease as to such Unit over (y) the then present value of the rentals which the Lessor reasonably estimates to be obtained for the use of the Unit during such period, such present value to be computed in each case on a basis of a 6% per annum discount, compounded semiannually from the respective dates upon which rentals would have been payable hereunder had this

Lease not been terminated, and (ii) any damages and expenses, including reasonable attorneys' fees, in addition thereto which the Lessor shall have sustained by reason of the breach of any covenant or covenants of this Lease other than for the payment of rental, including, without limitation, an amount which, after deduction of all taxes required to be paid by the Lessor in respect of the receipt thereof under the laws of the United States or any political subdivision thereof, shall be equal to any portion of the investment credit allowed by Section 38 of the Internal Revenue Code of 1954, as amended, lost by the Lessor as a result of the sale or other disposition of the Lessor's interest in any Unit after the occurrence of an Event of Default.

The remedies in this Lease provided in favor of the Lessor shall not be deemed exclusive, but shall be cumulative, and shall be in addition to all other remedies in its favor existing at law or in equity. The Lessee hereby waives any mandatory requirements of law, now or hereafter in effect, which might limit or modify the remedies herein provided, to the extent that such waiver is permitted by law. The Lessee hereby waives any and all existing or future claims to any offset against the rental payments due hereunder, and agrees to make rental payments regardless of any offset or claim which may be asserted by the Lessee or on its behalf.

The failure of the Lessor to exercise the rights granted it hereunder upon the occurrence of any of the contingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies.

10. Return of Units Upon Default. If this Lease shall terminate pursuant to § 9 hereof, the Lessee shall forthwith deliver possession of the Units to the Lessor. For the purpose of delivering possession of any Unit or Units to the Lessor as above required, the Lessee shall at its own cost, expense and risk:

A. forthwith place such Units upon such storage tracks of the Lessee as the Lessor reasonably may designate, or, in the absence of such designation, as the Lessee may select;

B. permit the Lessor to store such Units on such storage tracks until such Units have been sold, leased or otherwise disposed of by the Lessor; and

C. transport the same to any place on the lines of railroad operated by it or any of its affiliates or to any connecting carrier for shipment, all as directed by the Lessor.

The delivery, storage and transporting of the Units as hereinabove provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the

premises the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to deliver, store and transport the Units. During any storage period, the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any such Unit, to inspect the same; provided, however, that the Lessee shall not be liable, except in the case of negligence of the Lessee or of its employees or agents, for any injury to, or the death of, any person exercising, either on behalf of the Lessor or any prospective purchaser, the rights of inspection granted under this sentence.

Without in any way limiting the obligation of the Lessee under the foregoing provisions of this § 10, the Lessee hereby irrevocably appoints the Lessor as the agent and attorney of the Lessee, with full power and authority, at any time while the Lessee is obligated to deliver possession of any Unit to the Lessor, to demand and take possession of such Unit in the name and on behalf of the Lessee from whosoever shall be at the time in possession of such Unit. In connection therewith, the Lessee will supply the Lessor with such documents as the Lessor may reasonably request.

11. Assignment; Possession and Use. This Lease shall be assignable in whole or in part by the Lessor without the consent of the Lessee, but the Lessee shall be under no

obligation to any assignee of the Lessor except upon written notice of such assignment from the Lessor. Unless the Lessee otherwise consents, from and after any such assignment all rental and other payments made hereunder shall be paid by the Lessee to the account of the Lessor, care of the Vendor, or any assignee of the Vendor, and shall be applied by the Vendor (or such assignee) to satisfy the obligations of the Lessor under the Conditional Sale Agreement accrued at the time such payments are due hereunder and any balance shall be paid to the Lessor.

All the rights of the Lessor hereunder (including but not limited to the rights under § 9) shall inure to the benefit of the Lessor's assigns (and to each partner of an assignee if such assignee is a partnership). Whenever the term Lessor is used in this Lease, it shall apply and refer to each assignee of the Lessor (and to each partner of an assignee if such assignee is a partnership).

So long as the Lessee shall not be in default under this Lease, the Lessee shall be entitled to the possession and use of the Units in accordance with the terms of this Lease, but, without the prior written consent of the Lessor, the Lessee shall not assign, transfer or encumber its leasehold interest under this Lease in the Units or any of them. In addition, the Lessee, at its own expense, will promptly cause to be duly discharged any lien, charge, security interest or other

encumbrance (other than an encumbrance resulting from claims against the Lessor or the Vendor not related to the ownership of the Units) which may at any time be imposed on or with respect to any Unit including any accession thereto or the interests of the Lessor, the Vendor or the Lessee therein. The Lessee shall not, without the prior written consent of the Lessor, part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the Units, except to the extent permitted by the provisions of the next succeeding paragraph hereof.

So long as the Lessee shall not be in default under this Lease, the Lessee shall be entitled to the possession of the Units and to the use thereof upon its lines of railroad or upon lines of railroad over which the Lessee has trackage or other operating rights or over which railroad equipment of the Lessee is regularly operated pursuant to contract, and also to permit the use of the Units upon other railroads in the usual interchange of traffic, but only upon and subject to all the terms and conditions of this Lease. The Lessee may receive and retain compensation for such use from other railroads so using any of the Units.

Nothing in this § 11 shall be deemed to restrict the right of the Lessee to assign or transfer its leasehold interest under this Lease in the Units or possession of the Units to any corporation (which shall have duly assumed the

obligations of the Lessee hereunder) into or with which the Lessee shall have become merged or consolidated or which shall have acquired the property of the Lessee as an entirety or substantially as an entirety.

The Lessee agrees that during the term of this Lease the Lessee will not assign any Unit to service involving the regular operation and maintenance thereof outside the United States of America and that during such term any use of any Unit outside the United States of America will be limited to incidental and temporary use in Mexico and Canada.

§12. Return of Units upon Expiration of Term. As soon as practicable on or after the expiration of the term of this Lease, the Lessee will, at the request of the Lessor, deliver possession of any Units to the Lessor upon such storage tracks of the Lessee as the Lessor may designate, or, in the absence of such designation, as the Lessee may select, and permit the Lessor to store such Unit on such tracks for a period not exceeding six months and transport the same, at any time within such six-month period, to any reasonable place on the lines of railroad operated by the Lessee or to any connecting carrier for shipment, all as directed by the Lessor, such delivery, storage and transporting of the Units to be at the cost, expense and risk of the Lessee. During any such storage period the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any such Unit, to inspect the

same; provided, however, that the Lessee shall not be liable except in the case of negligence of the Lessee or of its employees or agents, for any injury to, or the death of, any person exercising, either on behalf of the Lessor or any prospective purchaser, the rights of inspection granted under this sentence. The delivery, storage and transporting of the Units as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lease so to deliver, store and transport the Units. If Lessor shall elect to abandon any Unit which has suffered a Casualty Occurrence or which after the expiration of this Lease the Lessor shall have deemed to have suffered a Casualty Occurrence, it may deliver written notice to such effect to the Lessee and the Lessee shall thereupon assume, and hold the Lessor harmless from, all liability arising in respect of any responsibility of ownership thereof, from and after receipt of such notice.

§13. Opinion of Counsel. Concurrently with the execution and delivery of this Lease, the Lessee will deliver to the Lessor two counterparts of the written opinion of counsel for the Lessee, addressed to the Lessor, in scope and substance satisfactory to the Lessor and its counsel, to the effect that:

A. the Lessee is a corporation legally incorporated, validly existing and in good standing under the laws of

the State of Virginia, with adequate corporate power to enter into this Lease;

B. the Conditional Sale Agreement and this Lease have been duly authorized, executed and delivered by the Lessee and constitute valid, legal and binding agreements of the Lessee, enforceable in accordance with their respective terms;

C. the Conditional Sale Agreement, any assignment thereof, and this Lease, when filed and recorded with the Interstate Commerce Commission pursuant to Section 20c of the Interstate Commerce Act, will protect the Vendor's and the Lessor's interests in and to the Units, and no filing, recording or deposit (or giving of notice) with any other Federal, state or local government is necessary in order to protect the interests of the Vendor or the Lessor in and to the Units;

D. no approval is required from any public regulatory body with respect to the entering into or performance of the Conditional Sale Agreement or this Lease;

E. the entering into and performance of the Conditional Sale Agreement and this Lease will not result in any breach of, or constitute a default under, any indenture, mortgage, deed of trust, bank loan or credit agreement or other agreement or instrument to which the Lessee is a party or by which it may be bound; and

F. no mortgage, deed of trust, or other lien of any nature whatsoever which now covers or affects, or which may hereafter cover or affect, any property or interests therein of the Lessee, now attaches or hereafter will attach to the Units or in any manner affects or will affect adversely the Lessor's right, title and interest therein; provided, however, that such liens may attach to the rights of the Lessee hereunder in and to the Units.

§14. Recording; Expenses. Prior to the delivery and acceptance of the Units, the Lessee will cause this Lease, the Conditional Sale Agreement and any assignment hereof or thereof to be filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act. The Lessee will, from time to time, do and perform any other act and will execute, acknowledge, deliver, file, register, record and deposit (and will refile, re-register, re-record or re-deposit whenever required) any and all further instruments required by law or reasonably requested by the Lessor for the purpose of proper protection, to the satisfaction of the Lessor, of the Vendor's and the Lessor's respective interests in the Units, or for the purpose of carrying out the intention of this Lease or the Conditional Sale Agreement.

The Lessor will pay the reasonable costs and expenses involved in the preparation and printing of this Lease. The Lessor and the Lessee will each, respectively, bear the fees and disbursements of any counsel which it may respectively retain.

§15. Interest on Overdue Rentals. Anything to the contrary herein contained notwithstanding, any nonpayment of rentals and other obligations due hereunder shall result in the obligation on the part of the Lessee promptly to pay also an amount equal to 8 1/2% per annum on such overdue rentals or other obligations for the period of time during which they are overdue.

§16. Notices. Any notice required or permitted to be given by either party hereto to the other shall be deemed to have been given when deposited in the United States certified mails, first-class postage prepaid, addressed as follows:

if to the Lessor, at 20 Grist Mill Lane,
Plandome Mills, Manhasset, New York, 11030;

if to the Lessee, at P.O Box 2210, Raleigh,
North Carolina 27602;

or addressed to either party at such other address as such party shall hereafter furnish to the other party in writing.

§17. Severability; Effect and Modification of Lease. Any provision of this Lease which is prohibited

or unenforceable in any jurisdiction, shall be, as to such jurisdiction, ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render ineffective such provision in any other jurisdiction.

§18. Execution in Counterparts. This Lease may be executed in several counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same instrument. Although this Lease is dated as of August 1, 1968, for convenience, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

§19. Law Governing. This Lease shall be construed, and all questions concerning its performance and the rights and remedies of the parties hereunder shall be determined, in accordance with the laws of the State of New York; provided, however,

that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this instrument to be executed in their respective corporate names by duly authorized officers, and their respective corporate seals to be hereunto affixed and duly attested, all as of the date first above written.

BEAUFORT EQUIPMENT CORPORATION

[Corporate Seal]

By R. Leigh Drenth
President

Attest:

Thomas M. Haythorn
Secretary

NORFOLK SOUTHERN RAILWAY COMPANY

[Corporate Seal]

By Henry D. E.
President

Attest:

W. C. Peterson, Jr.
Asst. Secretary

STATE OF NEW YORK
COUNTY OF *NEW YORK* } ss.:

On this *28th* day of *August*, 1968, before me personally appeared *R. Leigh Duenler*, to me personally known, who, being by me duly sworn, says that he is the President of BEAUFORT EQUIPMENT CORPORATION, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation

[Notarial Seal]

John S. Salt
JOHN S. SALT
Notary Public, State of New York
No. 24-3435225
Qualified in Kings County
Cert. Filed with New York Co. Clk. & Reg.
Commission expires March 30, 1969

STATE OF NORTH CAROLINA } ss.:
COUNTY OF WAKE

On this 3rd day of September, 1968, before me personally appeared Henry Oetjen, to me personally known, who, being by me duly sworn, says that he is the President of NORFOLK SOUTHERN RAILWAY COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

[Notarial Seal]

Evelyn G. Harper
Evelyn G. Harper
Notary Public

My commission expires May 22, 1970.